

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

GERALD LAMAR FRYAR,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-07-140-F
)	
THOMAS C. PETERSON, Warden,)	
)	
Respondent.)	

ORDER


Petitioner, a state prisoner appearing *pro se*, timely objects to the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on June 15, 2007, recommending that his amended petition pursuant to 28 U.S.C. § 2254 be denied. In the Report and Recommendation, Magistrate Judge Argo specifically found petitioner's claim that his sentence is excessive because it cannot be enhanced under Oklahoma's general enhancement statute to be without merit. Magistrate Judge Argo also rejected petitioner's claim that his sentence is excessive as being disproportionate to the facts and circumstances of the offense. Magistrate Judge Argo specifically concluded that petitioner's sentence is not so disproportionate to the crime so as to cause any constitutional concerns.

The court has reviewed the matter *de novo* in accordance with 28 U.S.C. § 636(b)(1). Having done so, the court finds petitioner's objection to be without merit. The court concurs with the analysis and recommendation of Magistrate Judge Argo. The court concludes that petitioner has failed to present a meritorious claim for federal habeas relief. Therefore, the court accepts, adopts, and affirms the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED that the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on June 15, 2007 (doc. no. 14) is **ACCEPTED, ADOPTED, and AFFIRMED.**

IT IS ALSO ORDERED that petitioner's amended Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, filed February 26, 2007 (doc. no. 5), is **DENIED.**

DATED this 17th day of July, 2007.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE